

Articles 35 through 37

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Article 35

ARTICLE 35: To see if the Town will amend the Zoning By-laws, Sections 4-D, Buffer Zone, subsections (1), (2), and (9), by: deleting the term “Board of Appeals” where it occurs and replace said terms with the term “Planning Board”

or to take any action in relation thereto.

(Petition of the Planning Board)

The Planning Board held a public hearing on March 16, 2006 and voted 5-0-0 to recommend FAVORABLE ACTION on Article 35.

Article 35 (Slide 2)

- This article replaces the **Board of Appeals** with the **Planning Board** in regard to **site plan review authority**. Currently, Section 4-D of the Zoning Bylaws designates the Board of Appeals as the site plan review authority.
- Prior to April 23, 1997 the Board of Appeals was the designated site plan review body.
- Town Meeting designated the Planning Board as the site plan review body as of that date with the adoption of Article 56.
- Section 4-D should be corrected to reflect this.

Notes Regarding 36 & 37

Please note that the 2004 Master Plan contains a recommendation that reads as follows:

“Review and evaluate the bylaws on multifamily phasing, subdivision phasing, and growth management for effectiveness, internal contradiction, and legality and amend or eliminate as appropriate (Sections 9-H, 9-I, 9-J of the Zoning Bylaw).”

- In direct response to this, Article 36 is proposed to be amended to reestablish its legal validity until a more thorough review can be conducted regarding the three criteria noted above.
- Article 37 is being deleted since it has expired, cannot be amended due to a sunset clause, and has never been employed. A zoning bylaw rewrite would assess the need for such a provision in the future.
- Finally, should the Town wish to adopt a smart growth zoning district under the provisions of M.G.L. 40R, Zoning Bylaw Sections 9-H through 9-J should be reviewed to determine any incongruence with this law since M.G.L. 40R Section 6, Subsection 6 states: *“A proposed smart growth zoning district shall not be subject to limitation of the issuance of building permits for residential uses or a local moratorium on the issuance of such permits.”*

Article 36

ARTICLE 36: To see if the Town will amend the Zoning By-laws, Section 9-I, Subdivision Phasing, subsection (1) by deleting the sentence:

“This section of the Zoning By-Law shall be considered together with the Master Plan Update of 1985; the Water Master Plan of 1989; the Open Space Plan of 1987; the 201 Facilities Plan of 1981; and Metro Plan 2000 prepared by the Metropolitan Area Planning Council in order to: ...” (continued)

Article 36

(continued from previous slide) ...and replacing it with:

“This section of the Zoning By-Law shall be considered together with the Master Plan; the Water Master Plan; the Open Space Plan; the 201 Facilities Plan; and Metro Plan prepared by the Metropolitan Area Planning Council, as all may be amended from time to time, in order to: ...”

and by further amending Section 9-I, Subdivision Phasing, subsection (3) by deleting the sentence:

“This section of the Zoning By-Law shall be in effect until December 31, 2005, at which time it shall automatically cease to be effective, unless otherwise extended for a longer period of time in accordance with applicable provisions of Massachusetts law.” (continued)

Article 36

(continued from previous slide) ...and replacing it with:

“This section of the Zoning By-Law shall be in effect until December 31, 2010, at which time it shall automatically cease to be effective, unless otherwise extended for a longer period of time in accordance with applicable provisions of Massachusetts law.”

or to take any action in relation thereto.(Petition of the Planning Board)

The Planning Board held a public hearing on March 16, 2006 and voted 5-0-0 to recommend FAVORABLE ACTION on Article 36.

Article 36

- This article replaces references to specific planning documents with a **more generic reference** to them which should be applicable even when new versions are adopted.
- By placing specific and dated planning documents (e.g. Open Space Plan of 1987) within Section 9-I, Subdivision Phasing, the Town is obligated to update this Section as each such plan is updated or otherwise made irrelevant. To obviate this, each designated plan should be identified more generically with the qualifier: “*as all may be amended from time to time*” which shall have the effect of making the documents referred to in this section relevant even in the event of an update or replacement.
- It also **changes the expiration clause to the year 2010.**

Article 37

ARTICLE 37: To see if the Town will amend the Zoning By-laws by deleting Section 9-J, Growth Management By-law.

or to take any action in relation thereto.(Petition of the Planning Board)

Article 37

- This article **deletes the Growth Management Bylaw** that was originally adopted on October 21, 1996.
- Section 9-I was **designed to manage the rate of residential growth** in Walpole and coordinate growth in conjunction with public services and utilities intended to serve new development.
- Section 9-I has **never been applied** and had **ceased to be effective** as of December 31, 2001 when it lapsed as per Subsection (3), Applicability and was not renewed or extended.
- This amendment is a **technical correction** to delete a lapsed provision from the bylaw. Future consideration of growth management tools shall be undertaken as part of a general Zoning Bylaw rewrite anticipated to commence within a year of the date of this Town Meeting.